

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL ZAMBRANO,

Plaintiff,

v.

No. 1:17-CV-00672-KRS

NANCY BERRYHILL

Defendant.

**STIPULATED ORDER GRANTING MOTION
FOR ATTORNEYS FEES AND COSTS**

THIS MATTER comes before the Court on the Stipulation of Award of Attorney Fees under the Equal Access to Justice Act (Doc. 24) in which the parties agree to awarding Plaintiff EAJA fees in the amount of \$5,820.40.

IT IS, THEREFORE, ORDERED that Plaintiff be awarded \$5,820.40 in attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d). *See Astrue v. Ratliff*, 560 U.S. 586, 591–93 (2010) (EAJA fees are paid to the prevailing party, not the attorney). Payment of this amount shall constitute a complete release from and bar to any and all claims Plaintiff may have relating to EAJA fees in connection with this action. The parties further agree that the EAJA award is without prejudice to Plaintiff's attorney's right to seek attorney fees pursuant to 42 U.S.C. § 406(b), subject to the offset provisions of the EAJA. *See* 28 U.S.C. § 2412(c)(1) (2006).

IT IS FURTHER ORDERED that if Plaintiff's counsel receives attorney fees under both the EAJA and 42 U.S.C. § 406(b), Section 206(b) of the Social Security Act, Plaintiff's

counsel shall refund the smaller award to Plaintiff pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

Kevin Sweazea _____
KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE